

### **REMARKS**

Claims 1-20 are pending in the present Application. By this Amendment, new claims 21-29 have been added, and no claims have been cancelled or withdrawn. Accordingly, claims 1-29 are currently at issue.

#### **I. Summary of Examiner Interview**

On August 6, 2008, Examiner Wilkins conducted a telephonic interview with Applicant's attorney Gregory G. Schlenz. Applicant thanks Examiner Wilkins for his time in conducting the interview.

In the interview, Examiner Wilkins discussed, with Applicant's counsel, the definitions and bounds of the term, "graphite based", both generally and specifically in relation to the use of coke and similar materials. The Examiner agreed that defining the material in question as "predominately graphite" rather than "graphite based" would likely overcome the current rejections under §§ 102 and 103 and distinguish the recited material from the coke material referred to in the Office Action.

#### **II. Rejections Under 35 U.S.C. § 102**

In paragraph 2 of the Office Action, claims 1 and 10 were rejected under 35 U.S.C. § 102 as being anticipated by Sorlie et al's book, "Cathodes in aluminum electrolysis" ("Sorlie"). Applicant respectfully traverses this rejection in light of the amendments herein.

Claim 1, as amended, includes, among other features, "depositing a layer of a granular conductive material between an anode and a cathode of the pot, *the granular conductive material being predominately graphite.*" Sorlie does not disclose, teach, or suggest this feature of claim 1. As stated in the Office Action, Sorlie discloses (at 77-80) only the use of coke as a conductive material in pre-heating a pot for aluminum electrolysis. As discussed in the interview, coke is not within the scope of "predominately graphite" materials. Sorlie does not disclose the use of any predominately graphite material for this purpose. Accordingly, Sorlie cannot anticipate claim 1.

Claim 10 depends from claim 1 and includes all the elements thereof. Thus, for the reasons stated above with respect to claim 1, Sorlie cannot anticipate claim 10.

### **III. Rejections Under 35 U.S.C. § 103**

#### **A. Rejections Over Sorlie**

In paragraph 4 of the Office Action, claims 2-6, 8, 11-14, 17-18, and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sorlie. Applicant respectfully traverses these rejections in light of the amendments herein.

Claims 2-6, 8, 11-14, 17-18, and 20 all depend from claim 1 and contain all the features thereof, including the feature discussed above: “depositing a layer of a granular conductive material between an anode and a cathode of the pot, the granular conductive material being predominately graphite.” As also discussed above, Sorlie does not disclose, teach, or suggest the use of any predominately graphite material as a conductive material in preheating a pot for electrolysis. Additionally, there is no disclosure, teaching, or suggestion in Sorlie, or elsewhere in the prior art, that would lead one skilled in the art to modify the teachings of Sorlie to incorporate a predominately graphite material for this purpose. Accordingly, no prima face case of obviousness can be established with respect to claims 2-6, 8, 11-14, 17-18, and 20.

#### **B. Rejections Over Sorlie in View of Takada**

In paragraph 5 of the Office Action, claims 7, 15, and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sorlie in view of U.S. Patent No. 4,800,102 to Takada (“Takada”). Applicant respectfully traverses these rejections in light of the amendments herein.

Claims 7, 15, and 16 all depend from claim 1 and contain all the features thereof, including the feature discussed above: “depositing a layer of a granular conductive material between an anode and a cathode of the pot, the granular conductive material being predominately graphite.” As also discussed above, Sorlie does not disclose, teach, or suggest the use of any predominately graphite material as a conductive material in preheating a pot for electrolysis. Further, Takada does not disclose, teach, or suggest this claimed feature, and the Office Action does not assert otherwise. Accordingly, the cited references do not disclose at least this claimed

feature, and no prima face case of obviousness can be established with respect to claims 7, 15, and 16.

**C. Rejections Over Sorlie in View of Homley**

In paragraph 6 of the Office Action, claims 9 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sorlie in view of U.S. Patent No. 6,231,745 to Homley et al. (“Homley”). Applicant respectfully traverses these rejections in light of the amendments herein.

Claims 9 and 19 both depend from claim 1 and contain all the features thereof, including the feature discussed above: “depositing a layer of a granular conductive material between an anode and a cathode of the pot, the granular conductive material being predominately graphite.” As also discussed above, Sorlie does not disclose, teach, or suggest the use of any predominately graphite material as a conductive material in preheating a pot for electrolysis. Further, Homley does not disclose, teach, or suggest this claimed feature, and the Office Action does not assert otherwise. Applicant notes that Homley addresses the use of graphite only as a material in the cathodes themselves, and does not discuss the use of graphite as a conductive material for preheating a pot. Accordingly, the cited references do not disclose at least this claimed feature, and no prima face case of obviousness can be established with respect to claims 9 and 19.

**IV. New Claims**

Applicants submit that new claims 21-29 are patentable over the references cited in the present Office Action, for the reasons briefly described below.

Claim 21 depends from claim 1 and includes all the elements thereof. Thus, for at least the same reasons stated above with respect to claim 1, claim 21 is patentable over the cited references.

Claim 22 includes, among other features, “inserting a granular conductive material between an anode and a cathode of the pot, the granular conductive material being predominately graphite.” This feature is similar to the feature discussed above with respect to claim 1, and for the same reasons stated above, the cited references do not disclose, teach, or suggest at least this feature of new claim 22. Accordingly, claim 22 is patentable over the cited references.

Claims 23-29 depend from claim 22 and include all the features thereof. Thus, for at least the same reasons, claims 23-29 are patentable over the cited references.

**CONCLUSION**

In view of the foregoing, Applicant respectfully requests reconsideration of the Examiner's rejections and allowance of claims 1-20 in the present Application. Applicant notes that the amendments to claims 1, 4, 7, 10, 15, 16, and 20 were made to clarify the meaning and scope of the claims, and do not narrow the scope of the respective claims. Applicant also respectfully requests examination and allowance of new claims 21-29. Applicant submits that the Application is in condition for allowance and respectfully requests an early notice of the same.

Respectfully submitted,

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By: 

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Gregory G. Schlenz, Registration No. 55,597  
Customer No. 22908  
Banner & Witcoff, Ltd.  
10 South Wacker Drive, Suite 3000  
Chicago, Illinois 60606  
312-463-5000

(12416787.1)